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**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2002 63049

**AMY FORTUNATA OLMEDO**  
5067 Woodley Avenue  
Encino, CA 91436

**A C C U S A T I O N**

Physical Therapist License No. PT 15498

Respondent.

Complainant alleges:

**PARTIES**

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about January 5, 1989, the Physical Therapy Board of California issued Physical Therapist License Number PT 15498 to Amy Fortunata Olmedo (Respondent). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2007, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Physical Therapy Board of California (Board), under the authority of the following sections of the Business and Professions

Code (Code).

4. Section 2660 of the Code states, in pertinent part:

“The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:

\* \* \*

“(h) Gross negligence in his or her practice as a physical therapist.

“(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

“(j) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

“(k) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.

“(l) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therapist.”

5. Section 2630 of the Code states, in pertinent part:

“A physical therapist . . . may utilize the services of one aide engaged in patient-related tasks to assist the physical therapist in his or her practice of physical therapy. . . . The aide shall at all times be under the orders, directions, and immediate supervision of the physical therapist. . . . The physical therapist shall provide continuous and immediate supervision of the aide. The physical therapist shall be in the same facility as, and in proximity to, the location where the aide is performing patient-related tasks, and shall be readily available at all times to provide advice or instruction to the aide. When patient-related tasks are provided to a patient by an aide, the supervising physical therapist shall, at some point during the treatment day, provide direct service to the patient as treatment for the patient’s condition, or to further evaluate and

1 monitor the patient's progress, and shall correspondingly document the patient's record."

2           6.       Section 2620.7 of the Code states:

3           "A physical therapist shall document his or her evaluation, goals, treatment plan,  
4 and summary of treatment in the patient record. Patient records shall be maintained for a period  
5 of no less than seven years following the discharge of the patient, except that the records of  
6 unemancipated minors shall be maintained at least one year after the minor has reached the age  
7 of 18 years, and not in any case less than seven years."

8           7.       California Code of Regulations, title 16, section 1399, states in pertinent  
9 part:

10           "A physical therapy aide is an unlicensed person who assists a physical therapist  
11 and may be utilized by a physical therapist in his or her practice by performing nonpatient  
12 related tasks, or by performing patient related tasks.

13           "(a) As used in these regulations:

14           "(1) A 'patient related task' means a physical therapy service rendered directly to  
15 the patient by an aide, excluding nonpatient related tasks as defined below.

16           "(2) A 'nonpatient related task' means a task related to observation of the patient,  
17 transport of patients, physical support only during gait or transfer training, housekeeping  
18 duties, clerical duties and similar functions.

19           "(b) 'Under the orders, direction and immediate supervision' means:

20           "(1) Prior to the initiation of care, the physical therapist shall evaluate every  
21 patient prior to the performance of any patient related tasks by the aide. The evaluation  
22 shall be documented in the patient's record.

23           "(2) The physical therapist shall formulate and record in the patient's record a  
24 treatment program based upon the evaluation and any other information available to the  
25 physical therapist, and shall determine those patient related tasks which may be assigned  
26 to an aide. The patient's record shall reflect those patient related tasks that were rendered  
27 by the aide, including the signature of the aide who performed those tasks.

28           "(3) The physical therapist shall assign only those patient related tasks that can be

1 safely and effectively performed by the aide. The supervising physical therapist shall be  
2 responsible at all times for the conduct of the aide while he or she is on duty.

3 “(4) The physical therapist shall provide continuous and immediate supervision of  
4 the aide. The physical therapist shall be in the same facility as and in immediate  
5 proximity to the location where the aide is performing patient related tasks, and shall be  
6 readily available at all times to provide advice or instruction to the aide. When patient  
7 related tasks are provided a patient by an aide the supervising physical therapist shall at  
8 some point during the treatment day provide direct service to the patient as treatment for  
9 the patient's condition or to further evaluate and monitor the patient's progress, and so  
10 document in the patient's record.

11 \* \* \*

12 “(6) The supervising physical therapist shall countersign with their first initial and  
13 last name, and date all entries in the patient's record, on the same day as patient related  
14 tasks were provided by the aide.”

15 8. Section 810 of the Code states in pertinent part:

16 “(a) It shall constitute unprofessional conduct and grounds for disciplinary action,  
17 including suspension or revocation of a license or certificate, for a health care  
18 professional to do any of the following in connection with his or her professional  
19 activities:

20 \* \* \*

21 “(2) Knowingly prepare, make, or subscribe any writing, with intent to present or  
22 use the same, or to allow it to be presented or used in support of any false or fraudulent  
23 claim.

24 “(b) It shall constitute cause for revocation or suspension of a license or  
25 certificate for a health care professional to engage in any conduct prohibited under  
26 Section 1871.4 of the Insurance Code or Section 550 of the Penal Code.”

27 9. Section 2661.5 of the Code states:

28 “(a) In any order issued in resolution of a disciplinary proceeding before

1 the board, the board may request the administrative law judge to direct any  
2 licensee found guilty of unprofessional conduct to pay to the board a sum not to  
3 exceed the actual and reasonable costs of the investigation and prosecution of the  
4 case.

5 “(b) The costs to be assessed shall be fixed by the administrative law  
6 judge and shall not in any event be increased by the board. When the board does  
7 not adopt a proposed decision and remands the case to an administrative law  
8 judge, the administrative law judge shall not increase the amount of the assessed  
9 costs specified in the proposed decision.

10 “(c) When the payment directed in an order for payment of costs is not  
11 made by the licensee, the board may enforce the order of payment by bringing an  
12 action in any appropriate court. This right of enforcement shall be in addition to  
13 any other rights the board may have as to any licensee directed to pay costs.

14 “(d) In any judicial action for the recovery of costs, proof of the board's  
15 decision shall be conclusive proof of the validity of the order of payment and the  
16 terms for payment.

17 “(e) (1) Except as provided in paragraph (2), the board shall not renew  
18 or reinstate the license or approval of any person who has failed to pay all  
19 of the costs ordered under this section.

20 (2) Notwithstanding paragraph (1), the board may, in its  
21 discretion, conditionally renew or reinstate for a maximum of one year the  
22 license or approval of any person who demonstrates financial hardship and  
23 who enters into a formal agreement with the board to reimburse the board  
24 within that one year period for those unpaid costs.

25 “(f) All costs recovered under this section shall be deposited in the  
26 Physical Therapy Fund as a reimbursement in either the fiscal year in which the  
27 costs are actually recovered or the previous fiscal year, as the board may direct.”

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Gross Negligence/Supervision of Physical Therapy Aides)

3 10. Respondent is subject to disciplinary action under Code section 2660,  
4 subdivisions (h), (i), (j), (k), and (l), and section 2630, in conjunction with California Code of  
5 Regulations Title 16, section 1399, in that she failed to properly supervise physical therapy aides,  
6 and failed to properly document treatments and sign patient charts. The circumstances are as  
7 follows:

8 A. With respect to J.C.<sup>1</sup>, respondent's patient was treated by physical therapy  
9 aides on numerous occasions between December 17, 1999 and June 30, 2000, and  
10 between February 12, and April 2, 2001, without any direct supervision of the physical  
11 therapy aides, or any direct service to the patient rendered by respondent.

12 B. With respect to N.C., respondent's patient was treated by physical therapy  
13 aides on numerous occasions between on or about April 7, 1999 and November 29, 1999,  
14 including May 19 and 28, 1999, when respondent signed progress notes, without any  
15 direct supervision of the physical therapy aides, or any direct service to the patient  
16 rendered by respondent.

17 C. With respect to N.C., respondent's patient was charged over thirty times for  
18 Vasopneumatic treatment, including on May 28, 1999, when respondent signed the  
19 progress note. The records do not reflect that this treatment was given to patient N.C.,  
20 and the equipment necessary to provide such treatment was not owned by the clinic, or  
21 present on the premises at any time.

22 D. With respect to both patients referred to above, respondent failed to properly  
23 document services provided, and failed to sign charts in order to identify particular  
24 services provided, and by whom services were provided.

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28 1. All patients are referred to herein by their initials to protect their privacy. The full  
names of all patients will be disclosed to respondent upon a timely request for discovery.

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3. Taking such other and further action as deemed necessary and proper.

DATED: May 13, 2005

Original Signed By:  
STEVEN K. HARTZELL  
Executive Officer  
Physical Therapy Board of California  
Department of Consumer Affairs  
State of California  
Complainant

Olmedo Accusation.wpd